

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 22-81766-CIV-CANNON/Reinhart

ANDREW HORACE,

Plaintiff,

v.

**ADDICTION RECOVERY INSTITUTE
OF AMERICA (ARIA),**

Defendant.

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ORDER ACCEPTING REPORT AND RECOMMENDATION WITH CLARIFICATION

THIS CAUSE comes before the Court upon the Magistrate Judge's Report and Recommendation on Defendant's Motion for Attorneys' Fees [ECF No. 42]. Upon review, the Report is **ACCEPTED** [ECF No. 42] with the clarification referenced below. Defendant's Motion for Entitlement to Attorneys' Fees [ECF No. 36] is **DENIED**.

BACKGROUND

On February 14, 2023, Plaintiff filed the Amended Complaint in this matter, alleging race and sex discrimination under Title VII and the Florida Civil Rights Act [ECF No. 19]. Defendant thereafter moved to dismiss the Amended Complaint [ECF No. 20]. The Court granted Defendant's Motion to Dismiss, concluding that the Amended Complaint lacked factual allegations to plausibly state a claim for race discrimination [ECF No 31 p. 4], and further concluding that Plaintiff's sex discrimination claims warranted dismissal for lack of exhaustion [ECF No. 31 p. 5]. After the Court's ruling, Defendant filed a Motion for Entitlement to Attorneys' Fees, arguing that it is entitled to fee-shifting under Title VII because Plaintiff's claims were frivolous [ECF No. 36].

On October 17, 2023, following referral, Magistrate Judge Reinhart issued a Report recommending denial of Defendant's Motion for Attorneys' Fees [ECF No. 42]. No party has filed objections, and the time to do so has expired.

LEGAL STANDARDS

To challenge the findings and recommendations of a magistrate judge, a party must file specific written objections identifying the portions of the proposed findings and recommendation to which objection is made. *See* Fed. R. Civ. P. 72(b)(3); *Heath v. Jones*, 863 F.2d 815, 822 (11th Cir. 1989); *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). A district court reviews de novo those portions of the report to which objection is made and may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1). To the extent a party fails to object to parts of the magistrate judge's report, the Court may accept the recommendation so long as there is no clear error on the face of the record. *Macort*, 208 F. App'x at 784. Legal conclusions are reviewed de novo, even in the absence of an objection. *See LeCroy v. McNeil*, 397 F. App'x 554, 556 (11th Cir. 2010); *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994).

DISCUSSION AND CONCLUSION

Following review, the Court finds no clear error in the Report. Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Report and Recommendation [ECF No. 42] is **ACCEPTED**, although the Court does not adopt any suggestion in the Report that Plaintiff plausibly stated a claim for race discrimination, for the reasons stated in the Court's Order Granting Defendant's Motion to Dismiss [ECF No. 31].
2. Defendant's Motion for Attorneys' Fees [ECF No. 36] is **DENIED**.

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3. The case remains **CLOSED**.

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this 17th day of November
2023.



AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record